

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 71 be amended to read as follows:

- 1 Page 8, line 9, after "appliance;" insert "**or**".
- 2 Page 8, line 10, strike "knowing failure to obey a reasonable written
- 3 or printed".
- 4 Page 8, strike line 11.
- 5 Page 8, line 12, strike "position in the place of work".
- 6 Page 8, line 12, delete "other than an order or regulation".
- 7 Page 8, line 13, delete "set forth in subsection (b)(2);".
- 8 Page 8, line 13, strike "or".
- 9 Page 8, line 14, delete "(5)".
- 10 Page 8, line 14, strike "duty." and insert "**duty, other than duties**
- 11 **relating to safety equipment and rules as set forth in subsection**
- 12 **(b).**".
- 13 Page 8, strike line 15.
- 14 Page 8, line 21, delete "in any degree".
- 15 Page 8, line 22, delete "a".
- 16 Page 8, line 22, delete "appliance" and insert "**equipment**".
- 17 Page 8, line 23, before "required" delete "or" and insert "**and**".
- 18 Page 8, delete lines 24 through 28, begin a new line block indented
- 19 and insert:
- 20 "**(2) failure to obey a written or printed rule of the employer**
- 21 **that has been posted in a conspicuous position in the place of**
- 22 **work.**".
- 23 Page 8, between lines 28 and 29, begin a new paragraph and insert:
- 24 "**(c) The burden of proof is on the defendant.**".

SECTION 7. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Compensation shall be
 allowed on account of injuries producing only temporary total disability
 to work or temporary partial disability to work beginning with the
 eighth (8th) day of such disability except for medical benefits provided
 in section 4 of the chapter. Compensation shall be allowed for the first
 seven (7) calendar days only if the disability continues for longer than
 twenty-one (21) days.

(b) The first weekly installment of compensation for temporary
 disability is due fourteen (14) days after the disability begins. Not later
 than fifteen (15) days from the date that the first installment of
 compensation is due, the employer or the employer's insurance carrier
 shall tender to the employee or to the employee's dependents, with all
 compensation due, a properly prepared compensation agreement in a
 form prescribed by the board. Whenever an employer or the employer's
 insurance carrier denies or is not able to determine liability to pay
 compensation or benefits, the employer or the employer's insurance
 carrier shall notify the worker's compensation board and the employee
 in writing on a form prescribed by the worker's compensation board not
 later than thirty (30) days after the employer's knowledge of the
 claimed injury. If a determination of liability cannot be made within
 thirty (30) days, the worker's compensation board may approve an
 additional thirty (30) days upon a written request of the employer or the
 employer's insurance carrier that sets forth the reasons that the
 determination could not be made within thirty (30) days and states the
 facts or circumstances that are necessary to determine liability within
 the additional thirty (30) days. More than thirty (30) days of additional
 time may be approved by the worker's compensation board upon the
 filing of a petition by the employer or the employer's insurance carrier
 that sets forth:

- (1) the extraordinary circumstances that have precluded a
 determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a
 determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil
 penalty of fifty dollars (\$50), to be assessed and collected by the board
 upon notice and hearing. Civil penalties collected under this section
 shall be deposited in the state general fund.

(c) Once begun, temporary total disability benefits may not be
 terminated by the employer unless:

- (1) the employee has returned to any employment;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination
 under section 6 of this chapter or has refused to accept suitable

employment under section 11 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; ~~or~~

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury; **or**

(6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 33 of this chapter.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the

1 employee do not equal the amount of the overpayment, the employee
 2 shall be responsible for paying any overpayment which cannot be
 3 deducted from benefits due the employee.

4 SECTION 8. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2002]: Sec. 10. (a) With respect to injuries in the following
 7 schedule occurring prior to April 1, 1951, the employee shall receive
 8 in addition to temporary total disability benefits not exceeding
 9 twenty-six (26) weeks on account of the injuries, a weekly
 10 compensation of fifty-five percent (55%) of the employee's average
 11 weekly wages. With respect to injuries in the following schedule
 12 occurring on and after April 1, 1951, and prior to July 1, 1971, the
 13 employee shall receive in addition to temporary total disability benefits
 14 not exceeding twenty-six (26) weeks on account of the injuries, a
 15 weekly compensation of sixty percent (60%) of the employee's average
 16 weekly wages. With respect to injuries in the following schedule
 17 occurring on and after July 1, 1971, and before July 1, 1977, the
 18 employee shall receive in addition to temporary total disability benefits
 19 not exceeding twenty-six (26) weeks on account of the injuries, a
 20 weekly compensation of sixty percent (60%) of the employee's average
 21 weekly wages not to exceed one hundred dollars (\$100) average weekly
 22 wages, for the periods stated for the injuries. With respect to injuries
 23 in the following schedule occurring on and after July 1, 1977, and
 24 before July 1, 1979, the employee shall receive, in addition to
 25 temporary total disability benefits not exceeding twenty-six (26) weeks
 26 on account of the injury, a weekly compensation of sixty percent (60%)
 27 of his average weekly wages, not to exceed one hundred twenty-five
 28 dollars (\$125) average weekly wages, for the period stated for the
 29 injury. With respect to injuries in the following schedule occurring on
 30 and after July 1, 1979, and before July 1, 1988, the employee shall
 31 receive, in addition to temporary total disability benefits not to exceed
 32 fifty-two (52) weeks on account of the injury, a weekly compensation
 33 of sixty percent (60%) of the employee's average weekly wages, not to
 34 exceed one hundred twenty-five dollars (\$125) average weekly wages,
 35 for the period stated for the injury. With respect to injuries in the
 36 following schedule occurring on and after July 1, 1988, and before July
 37 1, 1989, the employee shall receive, in addition to temporary total
 38 disability benefits not exceeding seventy-eight (78) weeks on account
 39 of the injury, a weekly compensation of sixty percent (60%) of the
 40 employee's average weekly wages, not to exceed one hundred sixty-six
 41 dollars (\$166) average weekly wages, for the period stated for the
 42 injury.

43 With respect to injuries in the following schedule occurring on and
 44 after July 1, 1989, and before July 1, 1990, the employee shall receive,
 45 in addition to temporary total disability benefits not exceeding
 46 seventy-eight (78) weeks on account of the injury, a weekly

1 compensation of sixty percent (60%) of the employee's average weekly
 2 wages, not to exceed one hundred eighty-three dollars (\$183) average
 3 weekly wages, for the period stated for the injury.

4 With respect to injuries in the following schedule occurring on and
 5 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 6 in addition to temporary total disability benefits not exceeding
 7 seventy-eight (78) weeks on account of the injury, a weekly
 8 compensation of sixty percent (60%) of the employee's average weekly
 9 wages, not to exceed two hundred dollars (\$200) average weekly
 10 wages, for the period stated for the injury.

11 (1) Amputation: For the loss by separation of the thumb, sixty
 12 (60) weeks, of the index finger forty (40) weeks, of the second
 13 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
 14 weeks, of the fourth or little finger twenty (20) weeks, of the hand
 15 by separation below the elbow joint two hundred (200) weeks, or
 16 the arm above the elbow two hundred fifty (250) weeks, of the big
 17 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
 18 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,
 19 of the fifth or little toe ten (10) weeks, and for loss occurring
 20 before April 1, 1959, by separation of the foot below the knee
 21 joint one hundred fifty (150) weeks and of the leg above the knee
 22 joint two hundred (200) weeks; for loss occurring on and after
 23 April 1, 1959, by separation of the foot below the knee joint, one
 24 hundred seventy-five (175) weeks and of the leg above the knee
 25 joint two hundred twenty-five (225) weeks. The loss of more than
 26 one (1) phalange of a thumb or toes shall be considered as the loss
 27 of the entire thumb or toe. The loss of more than two (2)
 28 phalanges of a finger shall be considered as the loss of the entire
 29 finger. The loss of not more than one (1) phalange of a thumb or
 30 toe shall be considered as the loss of one-half (1/2) of the thumb
 31 or toe and compensation shall be paid for one-half (1/2) of the
 32 period for the loss of the entire thumb or toe. The loss of not more
 33 than one (1) phalange of a finger shall be considered as the loss
 34 of one-third (1/3) of the finger and compensation shall be paid for
 35 one-third (1/3) the period for the loss of the entire finger. The loss
 36 of more than one (1) phalange of the finger but not more than two
 37 (2) phalanges of the finger, shall be considered as the loss of
 38 one-half (1/2) of the finger and compensation shall be paid for
 39 one-half (1/2) of the period for the loss of the entire finger.

40 (2) For the loss by separation of both hands or both feet or the
 41 total sight of both eyes, or any two (2) such losses in the same
 42 accident, five hundred (500) weeks.

43 (3) For the permanent and complete loss of vision by enucleation
 44 or its reduction to one-tenth (1/10) of normal vision with glasses,
 45 one hundred seventy-five (175) weeks.

46 (4) For the permanent and complete loss of hearing in one (1) ear,

1 seventy-five (75) weeks, and in both ears, two hundred (200)
2 weeks.

3 (5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of
4 both testicles, one hundred fifty (150) weeks.

5 (b) With respect to injuries in the following schedule occurring prior
6 to April 1, 1951, the employee shall receive in lieu of all other
7 compensation on account of the injuries, a weekly compensation of
8 fifty-five percent (55%) of the employee's average weekly wages. With
9 respect to injuries in the following schedule occurring on and after
10 April 1, 1951, and prior to April 1, 1955, the employee shall receive in
11 lieu of all other compensation on account of the injuries a weekly
12 compensation of sixty percent (60%) of the employee's average weekly
13 wages. With respect to injuries in the following schedule occurring on
14 and after April 1, 1955, and prior to July 1, 1971, the employee shall
15 receive in addition to temporary total disability benefits not exceeding
16 twenty-six (26) weeks on account of the injuries, a weekly
17 compensation of sixty percent (60%) of the employee's average weekly
18 wages. With respect to injuries in the following schedule occurring on
19 and after July 1, 1971, and before July 1, 1977, the employee shall
20 receive in addition to temporary total disability benefits not exceeding
21 twenty-six (26) weeks on account of the injuries, a weekly
22 compensation of sixty percent (60%) of the employee's average weekly
23 wages, not to exceed one hundred dollars (\$100) average weekly
24 wages, for the period stated for such injuries respectively. With respect
25 to injuries in the following schedule occurring on and after July 1,
26 1977, and before July 1, 1979, the employee shall receive, in addition
27 to temporary total disability benefits not exceeding twenty-six (26)
28 weeks on account of the injury, a weekly compensation of sixty percent
29 (60%) of the employee's average weekly wages not to exceed one
30 hundred twenty-five dollars (\$125) average weekly wages, for the
31 period stated for the injury. With respect to injuries in the following
32 schedule occurring on and after July 1, 1979, and before July 1, 1988,
33 the employee shall receive, in addition to temporary total disability
34 benefits not exceeding fifty-two (52) weeks on account of the injury, a
35 weekly compensation of sixty percent (60%) of the employee's average
36 weekly wages not to exceed one hundred twenty-five dollars (\$125)
37 average weekly wages for the period stated for the injury. With respect
38 to injuries in the following schedule occurring on and after July 1,
39 1988, and before July 1, 1989, the employee shall receive, in addition
40 to temporary total disability benefits not exceeding seventy-eight (78)
41 weeks on account of the injury, a weekly compensation of sixty percent
42 (60%) of the employee's average weekly wages, not to exceed one
43 hundred sixty-six dollars (\$166) average weekly wages, for the period
44 stated for the injury.

45 With respect to injuries in the following schedule occurring on and
46 after July 1, 1989, and before July 1, 1990, the employee shall receive,

in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation

shall be payable under this subdivision where compensation is payable elsewhere in this section.

(c) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (d) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half ($1/2$) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third ($1/3$) of the finger and compensation shall be paid for one-third ($1/3$) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than

two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per

degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2002**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2002, and before July 1, 2003, for each degree of permanent

impairment from one (1) to ten (10), two thousand fifty-six dollars (\$2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars (\$2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars (\$3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars (\$3,906) per degree. (10) With respect to injuries occurring on and after July 1, 2003, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars (\$2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars (\$3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars (\$3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars (\$4,531) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

- (1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).
- (2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).
- (3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).
- (4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).
- (5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).
- (6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- (7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).
- (8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).
- (9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).
- (10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2003, eight hundred eighty-two dollars (\$882).
- (11) With respect to injuries occurring on or after July 1, 2003, nine hundred forty-eight dollars (\$948).

SECTION 9. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) As used in this section, "board" refers to

the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause; had lost; or lost the use of; one (1) hand; one (1) arm; one (1) foot; one (1) leg; or one (1) eye; and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss; or loss of use of; another such member or eye; the employer shall be liable only for the compensation payable for such second injury. However; in addition to such compensation and after the completion of the payment therefor; the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund; and created in the manner described in subsection (c):

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries; including applicants under section 4(e) of this chapter; continue to receive compensation in a timely manner for a reasonable prospective period; the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999; the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk; shall; within thirty (30) days of the board sending notice under this subsection; pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection; the board may consider payments for temporary total disability; temporary partial disability; permanent total impairment; permanent partial impairment; or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars (\$1,000,000); the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000); the payments of not more than two and one-half percent (2.5%) of the

total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) (a) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

- (1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or
- (2) exhausts the employee's benefits under section 10 of this chapter;

1 then such employee may apply to the board, who may award the
 2 employee compensation from the second injury fund established by ~~this~~
 3 ~~section, IC 22-3-4-15~~, as follows under subsection ~~(h)~~: **(b)**.

4 ~~(h)~~ **(b)** An employee who has exhausted the employee's maximum
 5 benefits under section 10 of this chapter may be awarded additional
 6 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the
 7 employee's average weekly wage at the time of the employee's injury,
 8 not to exceed the maximum then applicable under section 22 of this
 9 chapter, for a period of not to exceed one hundred fifty (150) weeks
 10 upon competent evidence sufficient to establish:

11 (1) that the employee is totally and permanently disabled from
 12 causes and conditions of which there are or have been objective
 13 conditions and symptoms proven that are not within the physical
 14 or mental control of the employee; and

15 (2) that the employee is unable to support the employee in any
 16 gainful employment, not associated with rehabilitative or
 17 vocational therapy.

18 ~~(i)~~ **(c)** The additional award may be renewed during the employee's
 19 total and permanent disability after appropriate hearings by the board
 20 for successive periods not to exceed one hundred fifty (150) weeks
 21 each. The provisions of this section apply only to injuries occurring
 22 subsequent to April 1, 1950, for which awards have been or are in the
 23 future made by the board under section 10 of this chapter. Section 16
 24 of this chapter does not apply to compensation awarded from the
 25 second injury fund under this section.

26 ~~(j) All insurance carriers subject to an assessment under this section~~
 27 ~~are required to provide to the board:~~

28 ~~(1) not later than January 31 each calendar year; and~~

29 ~~(2) not later than thirty (30) days after a change occurs;~~

30 ~~the name, address, and electronic mail address of a representative~~
 31 ~~authorized to receive the notice of an assessment.~~

32 SECTION 10. IC 22-3-3-22, AS AMENDED BY P.L.31-2000,
 33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2002]: Sec. 22. (a) In computing the compensation under this
 35 law with respect to injuries occurring on and after April 1, 1963, and
 36 prior to April 1, 1965, the average weekly wages shall be considered
 37 to be not more than seventy dollars (\$70) nor less than thirty dollars
 38 (\$30). In computing the compensation under this law with respect to
 39 injuries occurring on and after April 1, 1965, and prior to April 1,
 40 1967, the average weekly wages shall be considered to be not more
 41 than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In
 42 computing the compensation under this law with respect to injuries
 43 occurring on and after April 1, 1967, and prior to April 1, 1969, the
 44 average weekly wages shall be considered to be not more than
 45 eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In
 46 computing the compensation under this law with respect to injuries

1 occurring on and after April 1, 1969, and prior to July 1, 1971, the
2 average weekly wages shall be considered to be not more than
3 ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In
4 computing the compensation under this law with respect to injuries
5 occurring on and after July 1, 1971, and prior to July 1, 1974, the
6 average weekly wages shall be considered to be: (A) Not more than: (1)
7 one hundred dollars (\$100) if no dependents; (2) one hundred five
8 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
9 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
10 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
11 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
12 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
13 computing compensation for temporary total disability, temporary
14 partial disability, and total permanent disability under this law with
15 respect to injuries occurring on and after July 1, 1974, and before July
16 1, 1976, the average weekly wages shall be considered to be (A) not
17 more than one hundred thirty-five dollars (\$135), and (B) not less than
18 seventy-five dollars (\$75). However, the weekly compensation payable
19 shall in no case exceed the average weekly wages of the employee at
20 the time of the injury. In computing compensation for temporary total
21 disability, temporary partial disability and total permanent disability
22 under this law with respect to injuries occurring on and after July 1,
23 1976, and before July 1, 1977, the average weekly wages shall be
24 considered to be (1) not more than one hundred fifty-six dollars (\$156)
25 and (2) not less than seventy-five dollars (\$75). However, the weekly
26 compensation payable shall not exceed the average weekly wages of
27 the employee at the time of the injury. In computing compensation for
28 temporary total disability, temporary partial disability, and total
29 permanent disability, with respect to injuries occurring on and after
30 July 1, 1977, and before July 1, 1979, the average weekly wages are
31 considered to be (1) not more than one hundred eighty dollars (\$180);
32 and (2) not less than seventy-five dollars (\$75). However, the weekly
33 compensation payable may not exceed the average weekly wages of the
34 employee at the time of the injury. In computing compensation for
35 temporary total disability, temporary partial disability, and total
36 permanent disability, with respect to injuries occurring on and after
37 July 1, 1979, and before July 1, 1980, the average weekly wages are
38 considered to be (1) not more than one hundred ninety-five dollars
39 (\$195), and (2) not less than seventy-five dollars (\$75). However, the
40 weekly compensation payable shall not exceed the average weekly
41 wages of the employee at the time of the injury. In computing
42 compensation for temporary total disability, temporary partial
43 disability, and total permanent disability, with respect to injuries
44 occurring on and after July 1, 1980, and before July 1, 1983, the
45 average weekly wages are considered to be (1) not more than two
46 hundred ten dollars (\$210), and (2) not less than seventy-five dollars

(§75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars (\$234) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars (\$249) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars (\$267) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars (\$285) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars (\$384) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be (1) not more than four hundred eleven dollars (\$411) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary

1 partial disability, and total permanent disability, with respect to injuries
 2 occurring on and after July 1, 1990, and before July 1, 1991, the
 3 average weekly wages are considered to be (1) not more than four
 4 hundred forty-one dollars (\$441) and (2) not less than seventy-five
 5 dollars (\$75). However, the weekly compensation payable shall not
 6 exceed the average weekly wages of the employee at the time of the
 7 injury.

8 In computing compensation for temporary total disability, temporary
 9 partial disability, and total permanent disability, with respect to injuries
 10 occurring on and after July 1, 1991, and before July 1, 1992, the
 11 average weekly wages are considered to be (1) not more than four
 12 hundred ninety-two dollars (\$492) and (2) not less than seventy-five
 13 dollars (\$75). However, the weekly compensation payable shall not
 14 exceed the average weekly wages of the employee at the time of the
 15 injury.

16 In computing compensation for temporary total disability, temporary
 17 partial disability, and total permanent disability, with respect to injuries
 18 occurring on and after July 1, 1992, and before July 1, 1993, the
 19 average weekly wages are considered to be (1) not more than five
 20 hundred forty dollars (\$540) and (2) not less than seventy-five dollars
 21 (\$75). However, the weekly compensation payable shall not exceed the
 22 average weekly wages of the employee at the time of the injury.

23 In computing compensation for temporary total disability, temporary
 24 partial disability, and total permanent disability, with respect to injuries
 25 occurring on and after July 1, 1993, and before July 1, 1994, the
 26 average weekly wages are considered to be (1) not more than five
 27 hundred ninety-one dollars (\$591) and (2) not less than seventy-five
 28 dollars (\$75). However, the weekly compensation payable shall not
 29 exceed the average weekly wages of the employee at the time of the
 30 injury.

31 In computing compensation for temporary total disability, temporary
 32 partial disability, and total permanent disability, with respect to injuries
 33 occurring on and after July 1, 1994, and before July 1, 1997, the
 34 average weekly wages are considered to be (1) not more than six
 35 hundred forty-two dollars (\$642) and (2) not less than seventy-five
 36 dollars (\$75). However, the weekly compensation payable shall not
 37 exceed the average weekly wages of the employee at the time of the
 38 injury.

39 (b) In computing compensation for temporary total disability,
 40 temporary partial disability, and total permanent disability, the average
 41 weekly wages are considered to be:

42 (1) with respect to injuries occurring on and after July 1, 1997,
 43 and before July 1, 1998:

44 (A) not more than six hundred seventy-two dollars (\$672); and

45 (B) not less than seventy-five dollars (\$75);

46 (2) with respect to injuries occurring on and after July 1, 1998,

and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732);

and

(B) not less than seventy-five dollars (\$75);

(4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars (\$822);

and

(B) not less than seventy-five dollars (\$75); ~~and~~

(6) with respect to injuries occurring on and after July 1, 2002, **and before July 1, 2003:**

(A) not more than eight hundred eighty-two dollars (\$882);

and

(B) not less than seventy-five dollars (\$75); **and**

(7) with respect to injuries occurring on and after July 1, 2003:

(A) not more than nine hundred forty-eight dollars (\$948);

and

(B) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars (\$12,500) in any case. With respect to any injury occurring on and after April 1, 1957, and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars (\$15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the

1 maximum compensation exclusive of medical benefits, which shall be
2 paid for an injury under any provision of this law or under any
3 combination of its provisions shall not exceed sixteen thousand five
4 hundred dollars (\$16,500) in any case. With respect to any injury
5 occurring on and after April 1, 1965, and prior to April 1, 1967, the
6 maximum compensation exclusive of medical benefits which shall be
7 paid for any injury under any provision of this law or any combination
8 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
9 case. With respect to any injury occurring on and after April 1, 1967,
10 and prior to July 1, 1971, the maximum compensation exclusive of
11 medical benefits which shall be paid for an injury under any provision
12 of this law or any combination of provisions shall not exceed
13 twenty-five thousand dollars (\$25,000) in any case. With respect to any
14 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
15 maximum compensation exclusive of medical benefits which shall be
16 paid for any injury under any provision of this law or any combination
17 of provisions shall not exceed thirty thousand dollars (\$30,000) in any
18 case. With respect to any injury occurring on and after July 1, 1974,
19 and before July 1, 1976, the maximum compensation exclusive of
20 medical benefits which shall be paid for an injury under any provision
21 of this law or any combination of provisions shall not exceed forty-five
22 thousand dollars (\$45,000) in any case. With respect to an injury
23 occurring on and after July 1, 1976, and before July 1, 1977, the
24 maximum compensation, exclusive of medical benefits, which shall be
25 paid for any injury under any provision of this law or any combination
26 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
27 any case. With respect to any injury occurring on and after July 1,
28 1977, and before July 1, 1979, the maximum compensation, exclusive
29 of medical benefits, which may be paid for an injury under any
30 provision of this law or any combination of provisions may not exceed
31 sixty thousand dollars (\$60,000) in any case. With respect to any injury
32 occurring on and after July 1, 1979, and before July 1, 1980, the
33 maximum compensation, exclusive of medical benefits, which may be
34 paid for an injury under any provisions of this law or any combination
35 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
36 any case. With respect to any injury occurring on and after July 1,
37 1980, and before July 1, 1983, the maximum compensation, exclusive
38 of medical benefits, which may be paid for an injury under any
39 provisions of this law or any combination of provisions may not exceed
40 seventy thousand dollars (\$70,000) in any case. With respect to any
41 injury occurring on and after July 1, 1983, and before July 1, 1984, the
42 maximum compensation, exclusive of medical benefits, which may be
43 paid for an injury under any provisions of this law or any combination
44 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
45 in any case. With respect to any injury occurring on and after July 1,
46 1984, and before July 1, 1985, the maximum compensation, exclusive

1 of medical benefits, which may be paid for an injury under any
2 provisions of this law or any combination of provisions may not exceed
3 eighty-three thousand dollars (\$83,000) in any case. With respect to
4 any injury occurring on and after July 1, 1985, and before July 1, 1986,
5 the maximum compensation, exclusive of medical benefits, which may
6 be paid for an injury under any provisions of this law or any
7 combination of provisions may not exceed eighty-nine thousand dollars
8 (\$89,000) in any case. With respect to any injury occurring on and after
9 July 1, 1986, and before July 1, 1988, the maximum compensation,
10 exclusive of medical benefits, which may be paid for an injury under
11 any provisions of this law or any combination of provisions may not
12 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
13 to any injury occurring on and after July 1, 1988, and before July 1,
14 1989, the maximum compensation, exclusive of medical benefits,
15 which may be paid for an injury under any provisions of this law or any
16 combination of provisions may not exceed one hundred twenty-eight
17 thousand dollars (\$128,000) in any case.

18 With respect to any injury occurring on and after July 1, 1989, and
19 before July 1, 1990, the maximum compensation, exclusive of medical
20 benefits, which may be paid for an injury under any provisions of this
21 law or any combination of provisions may not exceed one hundred
22 thirty-seven thousand dollars (\$137,000) in any case.

23 With respect to any injury occurring on and after July 1, 1990, and
24 before July 1, 1991, the maximum compensation, exclusive of medical
25 benefits, which may be paid for an injury under any provisions of this
26 law or any combination of provisions may not exceed one hundred
27 forty-seven thousand dollars (\$147,000) in any case.

28 With respect to any injury occurring on and after July 1, 1991, and
29 before July 1, 1992, the maximum compensation, exclusive of medical
30 benefits, that may be paid for an injury under any provisions of this law
31 or any combination of provisions may not exceed one hundred
32 sixty-four thousand dollars (\$164,000) in any case.

33 With respect to any injury occurring on and after July 1, 1992, and
34 before July 1, 1993, the maximum compensation, exclusive of medical
35 benefits, that may be paid for an injury under any provisions of this law
36 or any combination of provisions may not exceed one hundred eighty
37 thousand dollars (\$180,000) in any case.

38 With respect to any injury occurring on and after July 1, 1993, and
39 before July 1, 1994, the maximum compensation, exclusive of medical
40 benefits, that may be paid for an injury under any provisions of this law
41 or any combination of provisions may not exceed one hundred
42 ninety-seven thousand dollars (\$197,000) in any case.

43 With respect to any injury occurring on and after July 1, 1994, and
44 before July 1, 1997, the maximum compensation, exclusive of medical
45 benefits, which may be paid for an injury under any provisions of this
46 law or any combination of provisions may not exceed two hundred

1 fourteen thousand dollars (\$214,000) in any case.

2 (e) The maximum compensation, exclusive of medical benefits,
3 **subject to IC 22-3-2-8**, that may be paid for an injury under any
4 provision of this law or any combination of provisions may not exceed
5 the following amounts in any case:

6 (1) With respect to an injury occurring on and after July 1, 1997,
7 and before July 1, 1998, two hundred twenty-four thousand
8 dollars (\$224,000).

9 (2) With respect to an injury occurring on and after July 1, 1998,
10 and before July 1, 1999, two hundred thirty-four thousand dollars
11 (\$234,000).

12 (3) With respect to an injury occurring on and after July 1, 1999,
13 and before July 1, 2000, two hundred forty-four thousand dollars
14 (\$244,000).

15 (4) With respect to an injury occurring on and after July 1, 2000,
16 and before July 1, 2001, two hundred fifty-four thousand dollars
17 (\$254,000).

18 (5) With respect to an injury occurring on and after July 1, 2001,
19 and before July 1, 2002, two hundred seventy-four thousand
20 dollars (\$274,000).

21 (6) With respect to an injury occurring on and after July 1, 2002,
22 **and before July 1, 2003**, two hundred ninety-four thousand
23 dollars (\$294,000).

24 **(7) With respect to an injury occurring on or after July 1,**
25 **2003, the total of one hundred twenty-five (125) weeks of**
26 **temporary total disability compensation as set forth in section**
27 **8 of this chapter plus one hundred (100) degrees of permanent**
28 **partial disability as set forth in section 10 of this chapter.**

29 SECTION 11. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2002]: **Sec. 33. (a) If an employee:**

32 **(1) receives an injury that results in a temporary total**
33 **disability or a temporary partial disability; and**

34 **(2) is capable of performing work with permanent limitations**
35 **or restrictions that prevent the employee from returning to**
36 **the position the employee held before the employee's injury;**

37 **the employee may receive disabled from trade compensation.**

38 **(b) An employee may receive disabled from trade compensation**
39 **for a period not to exceed:**

40 **(1) fifty-two (52) consecutive weeks; or**

41 **(2) seventy-eight (78) aggregate weeks.**

42 **(c) An employee is entitled to receive disabled from trade**
43 **compensation in a weekly amount equal to the amount determined**
44 **under STEP FOUR of the following formula:**

45 **STEP ONE: Determine the employee's average weekly**
46 **earnings from employment with limitations or restrictions**
47 **that is entered after the employee's injury, if any.**

STEP TWO: Determine the employee's average weekly earnings from employment before the employee's injury.

STEP THREE: Determine the greater of:

- (A) the STEP TWO result minus the STEP ONE result; or
- (B) zero (0).

STEP FOUR: Determine the lesser of:

- (A) the STEP THREE result; or
- (B) with respect to injuries occurring on and after:
 - (1) July 1, 2002, and before July 1, 2003, eight hundred eighty-two dollars (\$882); or
 - (2) July 1, 2003, nine hundred forty-eight dollars (\$948).

(d) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

- (1) an explanation of the limitations or restrictions placed on the employee;
- (2) the amount of disabled from trade compensation the employee has been awarded; and
- (3) information for the employee regarding the terms of this section.

(e) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(f) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (d) with the board.

SECTION 12. IC 22-3-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. In all proceedings before the worker's compensation board or in a court under IC 22-3-2 through IC 22-3-6, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of eight percent (8%) per year accruing from the date of filing of the application of adjustment of claim as determined under section 5(a) of this chapter.**

SECTION 13. IC 22-3-4-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 15.(a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.**

(b) If an employee who from any cause:

- (1) had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident or exposure becomes permanently and totally disabled by reason of the loss, or loss of, another such member or eye; or

1 (2) has become impaired from an occupational disease and
 2 subsequently has become permanently and totally impaired
 3 from a second occupational disease;

4 the employer shall be liable only for the compensation payable for
 5 such second injury or impairment. However, in addition to such
 6 compensation and after the completion of the payment, the
 7 employee shall be paid the remainder of the compensation that is
 8 due for such total permanent disability out of a special fund known
 9 as the second injury fund, and created in the manner described in
 10 subsection (c).

11 (c) Whenever the board determines under the procedures set
 12 forth in subsection (d) that an assessment is necessary to ensure
 13 that fund beneficiaries, including applicants under IC 22-3-3-4(e),
 14 continue to receive compensation in a timely manner for a
 15 reasonable prospective period, the board shall send notice to:

16 (1) all insurance carriers and other entities insuring or
 17 providing coverage to employers who are or may be liable
 18 under this article to pay compensation for personal injuries or
 19 occupational disease to or the death of their employees under
 20 this article; and

21 (2) each employer carrying the employer's own risk;
 22 stating that an assessment is necessary. The board may conduct an
 23 assessment under this subsection not more than one (1) time
 24 annually. Every insurance carrier and other entity insuring or
 25 providing coverage to employers who are or may be liable under
 26 this article to pay compensation for personal injuries or
 27 occupational disease to or death of their employees under this
 28 article and every employer carrying the employer's own risk, shall,
 29 within thirty (30) days of the board sending notice under this
 30 subsection, pay to the worker's compensation board for the benefit
 31 of the fund an assessed amount equal to five hundred thousand
 32 dollars (\$500,000) plus the recommended funding level under
 33 subsection (d). For purposes of calculating the assessment under
 34 this subsection, the board may consider payments for temporary
 35 total disability, temporary partial disability, permanent total
 36 impairment, permanent partial impairment, or death of an
 37 employee. The board shall not consider payments for medical
 38 benefits in calculating an assessment under this subsection. When
 39 on or before October 1 of any year the amount to the credit of the
 40 fund is less than five hundred thousand dollars (\$500,000) greater
 41 than the recommended funding level under subsection (d), the
 42 board shall assess an amount equal to five hundred thousand
 43 dollars (\$500,000) plus the recommended funding level of the total
 44 amount of all compensation paid to employees or their
 45 beneficiaries under IC 22-3-2 through IC 22-3-7 for the calendar
 46 years preceding that date to be paid into the fund.

47 (d) The board shall enter into a contract with an actuary or

1 another qualified firm that has experience in calculating worker's
 2 compensation liabilities. The actuary or other qualified firm shall
 3 calculate the recommended funding level of the fund based on the
 4 previous year's claims and inform the board of the results of the
 5 calculation. If the amount to the credit of the fund is less than the
 6 amount required under subsection (c), the board may conduct an
 7 assessment under subsection (c). The board shall pay the costs of
 8 the contract under this subsection with money in the fund.

9 (e) An assessment collected under subsection (c) on an employer
 10 who is not self-insured must be assessed through a surcharge based
 11 on the employer's premium. An assessment collected under
 12 subsection (c) does not constitute an element of loss, but for the
 13 purpose of collection shall be treated as a separate cost imposed
 14 upon insured employers. A premium surcharge under this
 15 subsection must be collected at the same time and in the same
 16 manner in which the premium for coverage is collected, and must
 17 be shown as a separate amount on a premium statement. A
 18 premium surcharge under this subsection must be excluded from
 19 the definition of premium for all purposes, including the
 20 computation of agent commissions or premium taxes. However, an
 21 insurer may cancel a worker's compensation policy for
 22 nonpayment of the premium surcharge. A cancellation under this
 23 subsection must be carried out under the statutes applicable to the
 24 nonpayment of premiums.

25 (f) The sums shall be paid by the board to the treasurer of state,
 26 to be deposited in a special account known as the second injury
 27 fund. The funds are not a part of the general fund of the state. Any
 28 balance remaining in the account at the end of any fiscal year shall
 29 not revert to the general fund. The funds shall be used only for the
 30 payment of awards of compensation and expense of medical
 31 examinations or treatment made and ordered by the board and
 32 chargeable against the fund pursuant to this section, and shall be
 33 paid for that purpose by the treasurer of state upon award or
 34 order of the board.

35 (g) All insurance carriers subject to an assessment under this
 36 section are required to provide to the board:

- 37 (1) not later than January 31 each calendar year; and
- 38 (2) not later than thirty (30) days after a change occurs;
 39 the name, address, and electronic mail address of a representative
 40 authorized to receive the notice of an assessment."

41 Page 16, between lines 2 and 3, begin a new paragraph and insert:

42 "SECTION 17. IC 22-3-7-16, AS AMENDED BY P.L.1-2001,
 43 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2002]: Sec. 16. (a) Compensation shall be allowed on account
 45 of disablement from occupational disease resulting in only temporary
 46 total disability to work or temporary partial disability to work
 47 beginning with the eighth day of such disability except for the medical

benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; ~~or~~
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease; ~~or~~
- (6) the employee returns to work with limitations or**

1 **restrictions, and the employer converts temporary total**
 2 **disability or temporary partial disability compensation into**
 3 **disabled from trade compensation under section 16.5 of this**
 4 **chapter.**

5 In all other cases the employer must notify the employee in writing of
 6 the employer's intent to terminate the payment of temporary total
 7 disability benefits, and of the availability of employment, if any, on a
 8 form approved by the board. If the employee disagrees with the
 9 proposed termination, the employee must give written notice of
 10 disagreement to the board and the employer within seven (7) days after
 11 receipt of the notice of intent to terminate benefits. If the board and
 12 employer do not receive a notice of disagreement under this section,
 13 the employee's temporary total disability benefits shall be terminated.
 14 Upon receipt of the notice of disagreement, the board shall immediately
 15 contact the parties, which may be by telephone or other means and
 16 attempt to resolve the disagreement. If the board is unable to resolve
 17 the disagreement within ten (10) days of receipt of the notice of
 18 disagreement, the board shall immediately arrange for an evaluation of
 19 the employee by an independent medical examiner. The independent
 20 medical examiner shall be selected by mutual agreement of the parties
 21 or, if the parties are unable to agree, appointed by the board under
 22 IC 22-3-4-11. If the independent medical examiner determines that the
 23 employee is no longer temporarily disabled or is still temporarily
 24 disabled but can return to employment that the employer has made
 25 available to the employee, or if the employee fails or refuses to appear
 26 for examination by the independent medical examiner, temporary total
 27 disability benefits may be terminated. If either party disagrees with the
 28 opinion of the independent medical examiner, the party shall apply to
 29 the board for a hearing under section 27 of this chapter.

30 (c) An employer is not required to continue the payment of
 31 temporary total disability benefits for more than fourteen (14) days
 32 after the employer's proposed termination date unless the independent
 33 medical examiner determines that the employee is temporarily disabled
 34 and unable to return to any employment that the employer has made
 35 available to the employee.

36 (d) If it is determined that as a result of this section temporary total
 37 disability benefits were overpaid, the overpayment shall be deducted
 38 from any benefits due the employee under this section and, if there are
 39 no benefits due the employee or the benefits due the employee do not
 40 equal the amount of the overpayment, the employee shall be
 41 responsible for paying any overpayment which cannot be deducted
 42 from benefits due the employee.

43 (e) For disablements occurring on and after April 1, 1951, and prior
 44 to July 1, 1971, from occupational disease resulting in temporary total
 45 disability for any work there shall be paid to the disabled employee
 46 during such temporary total disability a weekly compensation equal to

1 sixty percent (60%) of the employee's average weekly wages for a
 2 period not to exceed five hundred (500) weeks. Compensation shall be
 3 allowed for the first seven (7) calendar days only if the disability
 4 continues for longer than twenty-eight (28) days.

5 For disablements occurring on and after July 1, 1971, and prior to
 6 July 1, 1974, from occupational disease resulting in temporary total
 7 disability for any work there shall be paid to the disabled employee
 8 during such temporary total disability a weekly compensation equal to
 9 sixty percent (60%) of the employee's average weekly wages, as
 10 defined in section 19 of this chapter, for a period not to exceed five
 11 hundred (500) weeks. Compensation shall be allowed for the first seven
 12 (7) calendar days only if the disability continues for longer than
 13 twenty-eight (28) days.

14 For disablements occurring on and after July 1, 1974, and before
 15 July 1, 1976, from occupational disease resulting in temporary total
 16 disability for any work there shall be paid to the disabled employee
 17 during such temporary total disability a weekly compensation equal to
 18 sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the employee's average
 19 weekly wages, up to one hundred thirty-five dollars (\$135) average
 20 weekly wages, as defined in section 19 of this chapter, for a period not
 21 to exceed five hundred (500) weeks. Compensation shall be allowed for
 22 the first seven (7) calendar days only if the disability continues for
 23 longer than twenty-one (21) days.

24 For disablements occurring on and after July 1, 1976, from
 25 occupational disease resulting in temporary total disability for any work
 26 there shall be paid to the disabled employee during the temporary total
 27 disability weekly compensation equal to sixty-six and two-thirds
 28 percent ($66 \frac{2}{3}\%$) of the employee's average weekly wages, as defined
 29 in section 19 of this chapter, for a period not to exceed five hundred
 30 (500) weeks. Compensation shall be allowed for the first seven (7)
 31 calendar days only if the disability continues for longer than twenty-one
 32 (21) days.

33 (f) For disablements occurring on and after April 1, 1951, and prior
 34 to July 1, 1971, from occupational disease resulting in temporary
 35 partial disability for work there shall be paid to the disabled employee
 36 during such disability a weekly compensation equal to sixty percent
 37 (60%) of the difference between the employee's average weekly wages
 38 and the weekly wages at which the employee is actually employed after
 39 the disablement, for a period not to exceed three hundred (300) weeks.
 40 Compensation shall be allowed for the first seven (7) calendar days
 41 only if the disability continues for longer than twenty-eight (28) days.
 42 In case of partial disability after the period of temporary total disability,
 43 the later period shall be included as part of the maximum period
 44 allowed for partial disability.

45 For disablements occurring on and after July 1, 1971, and prior to
 46 July 1, 1974, from occupational disease resulting in temporary partial

1 disability for work there shall be paid to the disabled employee during
 2 such disability a weekly compensation equal to sixty percent (60%) of
 3 the difference between the employee's average weekly wages, as
 4 defined in section 19 of this chapter, and the weekly wages at which the
 5 employee is actually employed after the disablement, for a period not
 6 to exceed three hundred (300) weeks. Compensation shall be allowed
 7 for the first seven (7) calendar days only if the disability continues for
 8 longer than twenty-eight (28) days. In case of partial disability after the
 9 period of temporary total disability, the latter period shall be included
 10 as a part of the maximum period allowed for partial disability.

11 For disablements occurring on and after July 1, 1974, from
 12 occupational disease resulting in temporary partial disability for work
 13 there shall be paid to the disabled employee during such disability a
 14 weekly compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the difference between the employee's average weekly wages,
 15 as defined in section 19 of this chapter, and the weekly wages at which
 16 ~~he~~ **the employee** is actually employed after the disablement, for a
 17 period not to exceed three hundred (300) weeks. Compensation shall
 18 be allowed for the first seven (7) calendar days only if the disability
 19 continues for longer than twenty-one (21) days. In case of partial
 20 disability after the period of temporary total disability, the latter period
 21 shall be included as a part of the maximum period allowed for partial
 22 disability.
 23

24 (g) For disabilities occurring on and after April 1, 1951, and prior
 25 to April 1, 1955, from occupational disease in the following schedule,
 26 the employee shall receive in lieu of all other compensation, on account
 27 of such disabilities, a weekly compensation of sixty percent (60%) of
 28 the employee's average weekly wage; for disabilities occurring on and
 29 after April 1, 1955, and prior to July 1, 1971, from occupational disease
 30 in the following schedule, the employee shall receive in addition to
 31 disability benefits not exceeding twenty-six (26) weeks on account of
 32 said occupational disease a weekly compensation of sixty percent
 33 (60%) of the employee's average weekly wages.

34 For disabilities occurring on and after July 1, 1971, and before July
 35 1, 1977, from occupational disease in the following schedule, the
 36 employee shall receive in addition to disability benefits not exceeding
 37 twenty-six (26) weeks on account of said occupational disease a weekly
 38 compensation of sixty percent (60%) of ~~his~~ **the employee's** average
 39 weekly wages not to exceed one hundred dollars (\$100) average weekly
 40 wages, for the period stated for such disabilities respectively.

41 For disabilities occurring on and after July 1, 1977, and before July
 42 1, 1979, from occupational disease in the following schedule, the
 43 employee shall receive in addition to disability benefits not exceeding
 44 twenty-six (26) weeks on account of the occupational disease a weekly
 45 compensation of sixty percent (60%) of the employee's average weekly
 46 wages, not to exceed one hundred twenty-five dollars (\$125) average

1 weekly wages, for the period stated for the disabilities.

2 For disabilities occurring on and after July 1, 1979, and before July
3 1, 1988, from occupational disease in the following schedule, the
4 employee shall receive in addition to disability benefits, not exceeding
5 fifty-two (52) weeks on account of the occupational disease, a weekly
6 compensation of sixty percent (60%) of the employee's average weekly
7 wages, not to exceed one hundred twenty-five dollars (\$125) average
8 weekly wages, for the period stated for the disabilities.

9 For disabilities occurring on and after July 1, 1988, and before July
10 1, 1989, from occupational disease in the following schedule, the
11 employee shall receive in addition to disability benefits, not exceeding
12 seventy-eight (78) weeks on account of the occupational disease, a
13 weekly compensation of sixty percent (60%) of the employee's average
14 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
15 average weekly wages, for the period stated for the disabilities.

16 For disabilities occurring on and after July 1, 1989, and before July
17 1, 1990, from occupational disease in the following schedule, the
18 employee shall receive in addition to disability benefits, not exceeding
19 seventy-eight (78) weeks on account of the occupational disease, a
20 weekly compensation of sixty percent (60%) of the employee's average
21 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
22 average weekly wages, for the period stated for the disabilities.

23 For disabilities occurring on and after July 1, 1990, and before July
24 1, 1991, from occupational disease in the following schedule, the
25 employee shall receive in addition to disability benefits, not exceeding
26 seventy-eight (78) weeks on account of the occupational disease, a
27 weekly compensation of sixty percent (60%) of the employee's average
28 weekly wages, not to exceed two hundred dollars (\$200) average
29 weekly wages, for the period stated for the disabilities.

30 (1) Amputations: For the loss by separation, of the thumb, sixty
31 (60) weeks; of the index finger, forty (40) weeks; of the second
32 finger, thirty-five (35) weeks; of the third or ring finger, thirty
33 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
34 hand by separation below the elbow, two hundred (200) weeks; of
35 the arm above the elbow joint, two hundred fifty (250) weeks; of
36 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
37 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
38 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
39 the knee joint, one hundred fifty (150) weeks; and of the leg
40 above the knee joint, two hundred (200) weeks. The loss of more
41 than one (1) phalange of a thumb or toe shall be considered as the
42 loss of the entire thumb or toe. The loss of more than two (2)
43 phalanges of a finger shall be considered as the loss of the entire
44 finger. The loss of not more than one (1) phalange of a thumb or
45 toe shall be considered as the loss of one-half (1/2) of the thumb
46 or toe and compensation shall be paid for one-half (1/2) of the

1 period for the loss of the entire thumb or toe. The loss of not more
2 than two (2) phalanges of a finger shall be considered as the loss
3 of one-half (1/2) the finger and compensation shall be paid for
4 one-half (1/2) of the period for the loss of the entire finger.

5 (2) Loss of Use: The total permanent loss of the use of an arm,
6 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
7 as the equivalent of the loss by separation of the arm, hand,
8 thumb, finger, leg, foot, toe, or phalange and the compensation
9 shall be paid for the same period as for the loss thereof by
10 separation.

11 (3) Partial Loss of Use: For the permanent partial loss of the use
12 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
13 compensation shall be paid for the proportionate loss of the use of
14 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

15 (4) For disablements for occupational disease resulting in total
16 permanent disability, five hundred (500) weeks.

17 (5) For the loss of both hands, or both feet, or the total sight of
18 both eyes, or any two (2) of such losses resulting from the same
19 disablement by occupational disease, five hundred (500) weeks.

20 (6) For the permanent and complete loss of vision by enucleation
21 of an eye or its reduction to one-tenth (1/10) of normal vision with
22 glasses, one hundred fifty (150) weeks, and for any other
23 permanent reduction of the sight of an eye, compensation shall be
24 paid for a period proportionate to the degree of such permanent
25 reduction without correction or glasses. However, when such
26 permanent reduction without correction or glasses would result in
27 one hundred percent (100%) loss of vision, but correction or
28 glasses would result in restoration of vision, then compensation
29 shall be paid for fifty percent (50%) of such total loss of vision
30 without glasses plus an additional amount equal to the
31 proportionate amount of such reduction with glasses, not to
32 exceed an additional fifty percent (50%).

33 (7) For the permanent and complete loss of hearing, two hundred
34 (200) weeks.

35 (8) In all other cases of permanent partial impairment,
36 compensation proportionate to the degree of such permanent
37 partial impairment, in the discretion of the worker's compensation
38 board, not exceeding five hundred (500) weeks.

39 (9) In all cases of permanent disfigurement, which may impair the
40 future usefulness or opportunities of the employee, compensation
41 in the discretion of the worker's compensation board, not
42 exceeding two hundred (200) weeks, except that no compensation
43 shall be payable under this paragraph where compensation shall
44 be payable under subdivisions (1) through (8). Where
45 compensation for temporary total disability has been paid, this
46 amount of compensation shall be deducted from any

1 compensation due for permanent disfigurement.

2 With respect to disablements in the following schedule occurring on
3 and after July 1, 1991, the employee shall receive in addition to
4 temporary total disability benefits, not exceeding one hundred
5 twenty-five (125) weeks on account of the disablement, compensation
6 in an amount determined under the following schedule to be paid
7 weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the
8 employee's average weekly wages during the fifty-two (52) weeks
9 immediately preceding the week in which the disablement occurred:

10 (1) Amputation: For the loss by separation of the thumb, twelve
11 (12) degrees of permanent impairment; of the index finger, eight
12 (8) degrees of permanent impairment; of the second finger, seven
13 (7) degrees of permanent impairment; of the third or ring finger,
14 six (6) degrees of permanent impairment; of the fourth or little
15 finger, four (4) degrees of permanent impairment; of the hand by
16 separation below the elbow joint, forty (40) degrees of permanent
17 impairment; of the arm above the elbow, fifty (50) degrees of
18 permanent impairment; of the big toe, twelve (12) degrees of
19 permanent impairment; of the second toe, six (6) degrees of
20 permanent impairment; of the third toe, four (4) degrees of
21 permanent impairment; of the fourth toe, three (3) degrees of
22 permanent impairment; of the fifth or little toe, two (2) degrees of
23 permanent impairment; of separation of the foot below the knee
24 joint, thirty-five (35) degrees of permanent impairment; and of the
25 leg above the knee joint, forty-five (45) degrees of permanent
26 impairment.

27 (2) Amputations occurring on or after July 1, 1997: For the loss
28 by separation of any of the body parts described in subdivision (1)
29 on or after July 1, 1997, the dollar values per degree applying on
30 the date of the injury as described in subsection (h) shall be
31 multiplied by two (2). However, the doubling provision of this
32 subdivision does not apply to a loss of use that is not a loss by
33 separation.

34 (3) The loss of more than one (1) phalange of a thumb or toe shall
35 be considered as the loss of the entire thumb or toe. The loss of
36 more than two (2) phalanges of a finger shall be considered as the
37 loss of the entire finger. The loss of not more than one (1)
38 phalange of a thumb or toe shall be considered as the loss of
39 one-half ($1/2$) of the degrees of permanent impairment for the loss
40 of the entire thumb or toe. The loss of not more than one (1)
41 phalange of a finger shall be considered as the loss of one-third
42 ($1/3$) of the finger and compensation shall be paid for one-third
43 ($1/3$) of the degrees payable for the loss of the entire finger. The
44 loss of more than one (1) phalange of the finger but not more than
45 two (2) phalanges of the finger shall be considered as the loss of
46 one-half ($1/2$) of the finger and compensation shall be paid for

- 1 one-half (1/2) of the degrees payable for the loss of the entire
2 finger.
- 3 (4) For the loss by separation of both hands or both feet or the
4 total sight of both eyes or any two (2) such losses in the same
5 accident, one hundred (100) degrees of permanent impairment.
- 6 (5) For the permanent and complete loss of vision by enucleation
7 or its reduction to one-tenth (1/10) of normal vision with glasses,
8 thirty-five (35) degrees of permanent impairment.
- 9 (6) For the permanent and complete loss of hearing in one (1) ear,
10 fifteen (15) degrees of permanent impairment, and in both ears,
11 forty (40) degrees of permanent impairment.
- 12 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
13 impairment; for the loss of both testicles, thirty (30) degrees of
14 permanent impairment.
- 15 (8) Loss of use: The total permanent loss of the use of an arm, a
16 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
17 considered as the equivalent of the loss by separation of the arm,
18 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
19 shall be paid in the same amount as for the loss by separation.
20 However, the doubling provision of subdivision (2) does not
21 apply to a loss of use that is not a loss by separation.
- 22 (9) Partial loss of use: For the permanent partial loss of the use of
23 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
24 phalange, compensation shall be paid for the proportionate loss of
25 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 26 (10) For disablements resulting in total permanent disability, the
27 amount payable for impairment or five hundred (500) weeks of
28 compensation, whichever is greater.
- 29 (11) For any permanent reduction of the sight of an eye less than
30 a total loss as specified in subdivision (5), the compensation shall
31 be paid in an amount proportionate to the degree of a permanent
32 reduction without correction or glasses. However, when a
33 permanent reduction without correction or glasses would result in
34 one hundred percent (100%) loss of vision, then compensation
35 shall be paid for fifty percent (50%) of the total loss of vision
36 without glasses, plus an additional amount equal to the
37 proportionate amount of the reduction with glasses, not to exceed
38 an additional fifty percent (50%).
- 39 (12) For any permanent reduction of the hearing of one (1) or both
40 ears, less than the total loss as specified in subdivision (6),
41 compensation shall be paid in an amount proportionate to the
42 degree of a permanent reduction.
- 43 (13) In all other cases of permanent partial impairment,
44 compensation proportionate to the degree of a permanent partial
45 impairment, in the discretion of the worker's compensation board,
46 not exceeding one hundred (100) degrees of permanent

1 impairment.

2 (14) In all cases of permanent disfigurement which may impair
3 the future usefulness or opportunities of the employee,
4 compensation, in the discretion of the worker's compensation
5 board, not exceeding forty (40) degrees of permanent impairment
6 except that no compensation shall be payable under this
7 subdivision where compensation is payable elsewhere in this
8 section.

9 (h) With respect to disablements occurring on and after July 1,
10 1991, compensation for permanent partial impairment shall be paid
11 according to the degree of permanent impairment for the disablement
12 determined under subsection (d) and the following:

13 (1) With respect to disablements occurring on and after July 1,
14 1991, and before July 1, 1992, for each degree of permanent
15 impairment from one (1) to thirty-five (35), five hundred dollars
16 (\$500) per degree; for each degree of permanent impairment from
17 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
18 degree; for each degree of permanent impairment above fifty (50),
19 one thousand five hundred dollars (\$1,500) per degree.

20 (2) With respect to disablements occurring on and after July 1,
21 1992, and before July 1, 1993, for each degree of permanent
22 impairment from one (1) to twenty (20), five hundred dollars
23 (\$500) per degree; for each degree of permanent impairment from
24 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
25 per degree; for each degree of permanent impairment from
26 thirty-six (36) to fifty (50), one thousand three hundred dollars
27 (\$1,300) per degree; for each degree of permanent impairment
28 above fifty (50), one thousand seven hundred dollars (\$1,700) per
29 degree.

30 (3) With respect to disablements occurring on and after July 1,
31 1993, and before July 1, 1997, for each degree of permanent
32 impairment from one (1) to ten (10), five hundred dollars (\$500)
33 per degree; for each degree of permanent impairment from eleven
34 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
35 each degree of permanent impairment from twenty-one (21) to
36 thirty-five (35), one thousand dollars (\$1,000) per degree; for
37 each degree of permanent impairment from thirty-six (36) to fifty
38 (50), one thousand four hundred dollars (\$1,400) per degree; for
39 each degree of permanent impairment above fifty (50), one
40 thousand seven hundred dollars (\$1,700) per degree.

41 (4) With respect to disablements occurring on and after July 1,
42 1997, and before July 1, 1998, for each degree of permanent
43 impairment from one (1) to ten (10), seven hundred fifty dollars
44 (\$750) per degree; for each degree of permanent impairment from
45 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
46 degree; for each degree of permanent impairment from thirty-six

1 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 2 degree; for each degree of permanent impairment above fifty (50),
 3 one thousand seven hundred dollars (\$1,700) per degree.
 4 (5) With respect to disablements occurring on and after July 1,
 5 1998, and before July 1, 1999, for each degree of permanent
 6 impairment from one (1) to ten (10), seven hundred fifty dollars
 7 (\$750) per degree; for each degree of permanent impairment from
 8 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
 9 degree; for each degree of permanent impairment from thirty-six
 10 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 11 degree; for each degree of permanent impairment above fifty (50),
 12 one thousand seven hundred dollars (\$1,700) per degree.
 13 (6) With respect to disablements occurring on and after July 1,
 14 1999, and before July 1, 2000, for each degree of permanent
 15 impairment from one (1) to ten (10), nine hundred dollars (\$900)
 16 per degree; for each degree of permanent impairment from eleven
 17 (11) to thirty-five (35), one thousand one hundred dollars
 18 (\$1,100) per degree; for each degree of permanent impairment
 19 from thirty-six (36) to fifty (50), one thousand six hundred dollars
 20 (\$1,600) per degree; for each degree of permanent impairment
 21 above fifty (50), two thousand dollars (\$2,000) per degree.
 22 (7) With respect to disablements occurring on and after July 1,
 23 2000, and before July 1, 2001, for each degree of permanent
 24 impairment from one (1) to ten (10), one thousand one hundred
 25 dollars (\$1,100) per degree; for each degree of permanent
 26 impairment from eleven (11) to thirty-five (35), one thousand
 27 three hundred dollars (\$1,300) per degree; for each degree of
 28 permanent impairment from thirty-six (36) to fifty (50), two
 29 thousand dollars (\$2,000) per degree; for each degree of
 30 permanent impairment above fifty (50), two thousand five
 31 hundred fifty dollars (\$2,500) per degree.
 32 (8) With respect to disablements occurring on and after July 1,
 33 2001, **and before July 1, 2002**, for each degree of permanent
 34 impairment from one (1) to ten (10), one thousand three hundred
 35 dollars (\$1,300) per degree; for each degree of permanent
 36 impairment from eleven (11) to thirty-five (35), one thousand five
 37 hundred dollars (\$1,500) per degree; for each degree of
 38 permanent impairment from thirty-six (36) to fifty (50), two
 39 thousand four hundred dollars (\$2,400) per degree; for each
 40 degree of permanent impairment above fifty (50), three thousand
 41 dollars (\$3,000) per degree.
 42 **(9) With respect to disablements occurring on and after July**
 43 **1, 2002, and before July 1, 2003, for each degree of permanent**
 44 **impairment from one (1) to ten (10), two thousand fifty-six**
 45 **dollars (\$2,056) per degree; for each degree of permanent**
 46 **impairment from eleven (11) to thirty-five (35), two thousand**

seven hundred six dollars (\$2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars (\$3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars (\$3,906) per degree. (10) With respect to disablements occurring on and after July 1, 2003, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars (\$2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars (\$3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars (\$3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars (\$4,531) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two dollars (\$882).

(11) With respect to disablements occurring on or after July 1, 2003, nine hundred forty-eight dollars (\$948).

(j) If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity ~~procured for him; he the~~ **employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he the employee~~ suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he the~~ **employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9) after having sustained another such permanent disability in the same employment the employee shall be entitled to

1 compensation for both such disabilities, but the total compensation
2 shall be paid by extending the period and not by increasing the amount
3 of weekly compensation and, when such previous and subsequent
4 permanent disabilities, in combination result in total permanent
5 disability or permanent total impairment, compensation shall be
6 payable for such permanent total disability or impairment, but
7 payments made for the previous disability or impairment shall be
8 deducted from the total payment of compensation due.

9 (n) When an employee has been awarded or is entitled to an award
10 of compensation for a definite period under this chapter for disability
11 from occupational disease, which disablement occurs on and after April
12 1, 1951, and prior to April 1, 1963, and such employee dies from any
13 other cause than such occupational disease, payment of the unpaid
14 balance of such compensation, not exceeding three hundred (300)
15 weeks, shall be made to the employee's dependents of the second and
16 third class as defined in sections 11 through 14 of this chapter, and
17 compensation, not exceeding five hundred (500) weeks, shall be made
18 to the employee's dependents of the first class as defined in sections 11
19 through 14 of this chapter. When an employee has been awarded or is
20 entitled to an award of compensation for a definite period from an
21 occupational disease wherein disablement occurs on and after April 1,
22 1963, and such employee dies from other causes than such
23 occupational disease, payment of the unpaid balance of such
24 compensation not exceeding three hundred fifty (350) weeks shall be
25 paid to the employee's dependents of the second and third class as
26 defined in sections 11 through 14 of this chapter and compensation, not
27 exceeding five hundred (500) weeks shall be made to the employee's
28 dependents of the first class as defined in sections 11 through 14 of this
29 chapter.

30 (o) Any payment made by the employer to the employee during the
31 period of the employee's disability, or to the employee's dependents,
32 which, by the terms of this chapter, was not due and payable when
33 made, may, subject to the approval of the worker's compensation board,
34 be deducted from the amount to be paid as compensation, but such
35 deduction shall be made from the distal end of the period during which
36 compensation must be paid, except in cases of temporary disability.

37 (p) When so provided in the compensation agreement or in the
38 award of the worker's compensation board, compensation may be paid
39 semimonthly, or monthly, instead of weekly.

40 (q) When the aggregate payments of compensation awarded by
41 agreement or upon hearing to an employee or dependent under eighteen
42 (18) years of age do not exceed one hundred dollars (\$100), the
43 payment thereof may be made directly to such employee or dependent,
44 except when the worker's compensation board shall order otherwise.

45 Whenever the aggregate payments of compensation, due to any
46 person under eighteen (18) years of age, exceed one hundred dollars

(§100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

SECTION 18. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 16.1. (a) On or after January 1, 2003, if an employee who is entitled to compensation under this chapter either:**

(1) exhausts the maximum benefits under this chapter without having received the full amount of award granted to the employee under this chapter; or

(2) exhausts the employee's benefits under this chapter;

then the employee may apply to the worker's compensation board, who may award the employee compensation from the second injury fund under IC 22-3-4-15, subject to subsection (b).

(b) An employee who has exhausted the employee's maximum benefits under this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's disablement from occupational disease, not to exceed the maximum applicable under this chapter for a period not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from an occupational disease of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(c) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

SECTION 19. IC 22-3-7-16.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2002]: **Sec. 16.5. (a) If an employee:**

- (1) suffers an occupational disease that results in a temporary total disability or a temporary partial disability; and**
- (2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's occupational disease;**

the employee may receive disabled from trade compensation.

(b) An employee may receive disabled from trade compensation for a period not to exceed:

- (1) fifty-two (52) consecutive weeks; or**
- (2) seventy-eight (78) aggregate weeks.**

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the employee's average weekly earnings from employment with limitations or restrictions that is entered after the employee's occupational disease, if any.

STEP TWO: Determine the employee's average weekly earnings from employment before the employee's occupational disease.

STEP THREE: Determine the greater of:

- (A) the STEP TWO result minus the STEP ONE result; or**
- (B) zero (0).**

STEP FOUR: Determine the lesser of:

- (A) the STEP THREE result; or**
- (B) with respect to occupational diseases occurring on and after:**

(1) July 1, 2002, and before July 1, 2003, eight hundred eighty-two dollars (\$882); or

(2) July 1, 2003, nine hundred forty-eight dollars (\$948).

(d) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

- (1) an explanation of the limitations or restrictions placed on the employee;**
- (2) the amount of disabled from trade compensation the employee has been awarded; and**
- (3) information for the employee regarding the terms of this section.**

(e) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(f) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (d) with the board.

SECTION 20. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

- (A) not more than one hundred thirty-five dollars (\$135); and
- (B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

- (A) not more than one hundred fifty-six dollars (\$156); and
- (B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

- (A) not more than one hundred eighty dollars (\$180); and
- (B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

- (A) not more than one hundred ninety-five dollars (\$195); and
- (B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

- (A) not more than two hundred ten dollars (\$210); and
- (B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

- (A) not more than two hundred thirty-four dollars (\$234); and
- (B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

- (A) not more than two hundred forty-nine dollars (\$249); and
- (B) not less than seventy-five dollars (\$75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

- (1) not more than two hundred sixty-seven dollars (\$267); and
- (2) not less than seventy-five dollars (\$75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect

1 to occupational diseases occurring on and after July 1, 1986, and before
2 July 1, 1988, the average weekly wages are considered to be:

- 3 (1) not more than two hundred eighty-five dollars (\$285); and
4 (2) not less than seventy-five dollars (\$75).

5 (d) In computing compensation for temporary total disability,
6 temporary partial disability, and total permanent disability, with respect
7 to occupational diseases occurring on and after July 1, 1988, and before
8 July 1, 1989, the average weekly wages are considered to be:

- 9 (1) not more than three hundred eighty-four dollars (\$384); and
10 (2) not less than seventy-five dollars (\$75).

11 (e) In computing compensation for temporary total disability,
12 temporary partial disability, and total permanent disability, with respect
13 to occupational diseases occurring on and after July 1, 1989, and before
14 July 1, 1990, the average weekly wages are considered to be:

- 15 (1) not more than four hundred eleven dollars (\$411); and
16 (2) not less than seventy-five dollars (\$75).

17 (f) In computing compensation for temporary total disability,
18 temporary partial disability, and total permanent disability, with respect
19 to occupational diseases occurring on and after July 1, 1990, and before
20 July 1, 1991, the average weekly wages are considered to be:

- 21 (1) not more than four hundred forty-one dollars (\$441); and
22 (2) not less than seventy-five dollars (\$75).

23 (g) In computing compensation for temporary total disability,
24 temporary partial disability, and total permanent disability, with respect
25 to occupational diseases occurring on and after July 1, 1991, and before
26 July 1, 1992, the average weekly wages are considered to be:

- 27 (1) not more than four hundred ninety-two dollars (\$492); and
28 (2) not less than seventy-five dollars (\$75).

29 (h) In computing compensation for temporary total disability,
30 temporary partial disability, and total permanent disability, with respect
31 to occupational diseases occurring on and after July 1, 1992, and before
32 July 1, 1993, the average weekly wages are considered to be:

- 33 (1) not more than five hundred forty dollars (\$540); and
34 (2) not less than seventy-five dollars (\$75).

35 (i) In computing compensation for temporary total disability,
36 temporary partial disability, and total permanent disability, with respect
37 to occupational diseases occurring on and after July 1, 1993, and before
38 July 1, 1994, the average weekly wages are considered to be:

- 39 (1) not more than five hundred ninety-one dollars (\$591); and
40 (2) not less than seventy-five dollars (\$75).

41 (j) In computing compensation for temporary total disability,
42 temporary partial disability and total permanent disability, with respect
43 to occupational diseases occurring on and after July 1, 1994, and before
44 July 1, 1997, the average weekly wages are considered to be:

- 45 (1) not more than six hundred forty-two dollars (\$642); and
46 (2) not less than seventy-five dollars (\$75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732); and

(B) not less than seventy-five dollars (\$75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars (\$822); and

(B) not less than seventy-five dollars (\$75); ~~and~~

(6) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2002, **and before July 1, 2003:**

(A) not more than eight hundred eighty-two dollars (\$882); and

(B) not less than seventy-five dollars (\$75); **and**

(7) with respect to occupational diseases occurring on and after July 1, 2003:

(A) not more than nine hundred forty-eight dollars (\$948); and

(B) not less than seventy-five dollars (\$75).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;

1 (5) on and after July 1, 1980, and before July 1, 1983, may not
2 exceed seventy thousand dollars (\$70,000) in any case;

3 (6) on and after July 1, 1983, and before July 1, 1984, may not
4 exceed seventy-eight thousand dollars (\$78,000) in any case; and

5 (7) on and after July 1, 1984, and before July 1, 1985, may not
6 exceed eighty-three thousand dollars (\$83,000) in any case.

7 (m) The maximum compensation with respect to disability or death
8 occurring on and after July 1, 1985, and before July 1, 1986, which
9 shall be paid for occupational disease and the results thereof under the
10 provisions of this chapter or under any combination of its provisions
11 may not exceed eighty-nine thousand dollars (\$89,000) in any case.
12 The maximum compensation with respect to disability or death
13 occurring on and after July 1, 1986, and before July 1, 1988, which
14 shall be paid for occupational disease and the results thereof under the
15 provisions of this chapter or under any combination of its provisions
16 may not exceed ninety-five thousand dollars (\$95,000) in any case. The
17 maximum compensation with respect to disability or death occurring
18 on and after July 1, 1988, and before July 1, 1989, that shall be paid for
19 occupational disease and the results thereof under this chapter or under
20 any combination of its provisions may not exceed one hundred
21 twenty-eight thousand dollars (\$128,000) in any case.

22 (n) The maximum compensation with respect to disability or death
23 occurring on and after July 1, 1989, and before July 1, 1990, that shall
24 be paid for occupational disease and the results thereof under this
25 chapter or under any combination of its provisions may not exceed one
26 hundred thirty-seven thousand dollars (\$137,000) in any case.

27 (o) The maximum compensation with respect to disability or death
28 occurring on and after July 1, 1990, and before July 1, 1991, that shall
29 be paid for occupational disease and the results thereof under this
30 chapter or under any combination of its provisions may not exceed one
31 hundred forty-seven thousand dollars (\$147,000) in any case.

32 (p) The maximum compensation with respect to disability or death
33 occurring on and after July 1, 1991, and before July 1, 1992, that shall
34 be paid for occupational disease and the results thereof under this
35 chapter or under any combination of the provisions of this chapter may
36 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
37 case.

38 (q) The maximum compensation with respect to disability or death
39 occurring on and after July 1, 1992, and before July 1, 1993, that shall
40 be paid for occupational disease and the results thereof under this
41 chapter or under any combination of the provisions of this chapter may
42 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

43 (r) The maximum compensation with respect to disability or death
44 occurring on and after July 1, 1993, and before July 1, 1994, that shall
45 be paid for occupational disease and the results thereof under this
46 chapter or under any combination of the provisions of this chapter may

not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter, **subject to section 21 of this chapter**, may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2003**, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to a disability or death occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation plus one hundred (100) degrees of permanent partial impairment, both as set forth in section 16 of this chapter.

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over

a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total

1 disability resulting from a disablement occurring on or after January 1,
2 1998, the minimum total benefit shall not be less than seventy-five
3 thousand dollars (\$75,000).".

4 Page 16, line 12, after "offense;" insert "**or**".

5 Page 16, line 14, strike "knowing failure to obey a reasonable
6 written or printed".

7 Page 16, strike line 15.

8 Page 16, line 16, strike "position in the place of work".

9 Page 16, line 16, delete "other than an order or regulation".

10 Page 16, line 17, delete "set forth in subsection (c)(2);".

11 Page 16, line 17, strike "or".

12 Page 16, line 18, delete "(4)".

13 Page 16, run in lines 14 through 18.

14 Page 16, line 18, strike "duty." and insert "**duty, other than duties**
15 **relating to safety equipment and rules as set forth in subsection**
16 **(b).**".

17 Page 16, strike line 19.

18 Page 16, line 25, delete "in any degree".

19 Page 16, line 27, delete "a".

20 Page 16, line 27, delete "appliance" and insert "**equipment**".

21 Page 16, delete lines 29 through 33, begin a new line block indented
22 and insert:

23 "**(2) failure to obey a reasonable written or printed rule of the**
24 **employer which has been posed in a conspicuous position in**
25 **the place of work.**".

26 Page 16, between lines 33 and 34, begin a new paragraph and insert:

27 "**(d) The burden of proof is on the defendant.**

28 SECTION 22. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,
29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2002]: Sec. 27. (a) If the employer and the employee or the
31 employee's dependents disagree in regard to the compensation payable
32 under this chapter, or, if they have reached such an agreement, which
33 has been signed by them, filed with and approved by the worker's
34 compensation board, and afterward disagree as to the continuance of
35 payments under such agreement, or as to the period for which payments
36 shall be made, or as to the amount to be paid, because of a change in
37 conditions since the making of such agreement, either party may then
38 make an application to the board for the determination of the matters
39 in dispute. When compensation which is payable in accordance with an
40 award or by agreement approved by the board is ordered paid in a lump
41 sum by the board, no review shall be had as in this subsection
42 mentioned.

43 (b) The application making claim for compensation filed with the
44 worker's compensation board shall state the following:

45 (1) The approximate date of the last day of the last exposure and
46 the approximate date of the disablement.

1 (2) The general nature and character of the illness or disease
2 claimed.

3 (3) The name and address of the employer by whom employed on
4 the last day of the last exposure, and if employed by any other
5 employer after such last exposure and before disablement, the
6 name and address of such other employer or employers.

7 (4) In case of death, the date and place of death.

8 (5) Amendments to applications making claim for compensation
9 which relate to the same disablement or disablement resulting in
10 death originally claimed upon may be allowed by the board in its
11 discretion, and, in the exercise of such discretion, it may, in
12 proper cases, order a trial de novo. Such amendment shall relate
13 back to the date of the filing of the original application so
14 amended.

15 (c) Upon the filing of such application, the board shall set the date
16 of hearing, which shall be as early as practicable, and shall notify the
17 parties, in the manner prescribed by the board, of the time and place of
18 hearing. The hearing of all claims for compensation on account of
19 occupational disease shall be held in the county in which the last
20 exposure occurred or in any adjoining county, except when the parties
21 consent to a hearing elsewhere. Claims assigned to an individual board
22 member that are considered to be of an emergency nature by that board
23 member, may be heard in any county within the board member's
24 jurisdiction.

25 (d) The board by any or all of its members shall hear the parties at
26 issue, their representatives, and witnesses, and shall determine the
27 dispute in a summary manner. The award shall be filed with the record
28 of proceedings, and a copy thereof shall immediately be sent by
29 registered mail to each of the parties in dispute.

30 (e) If an application for review is made to the board within thirty
31 (30) days from the date of the award made by less than all the
32 members, the full board, if the first hearing was not held before the full
33 board, shall review the evidence, or, if deemed advisable, hear the
34 parties at issue, their representatives, and witnesses as soon as
35 practicable, and shall make an award and file the same with the finding
36 of the facts on which it is based and send a copy thereof to each of the
37 parties in dispute, in like manner as specified in subsection (d).

38 (f) An award of the board by less than all of the members as
39 provided in this section, if not reviewed as provided in this section,
40 shall be final and conclusive. An award by the full board shall be
41 conclusive and binding unless either party to the dispute, within thirty
42 (30) days after receiving a copy of such award, appeals to the court of
43 appeals under the same terms and conditions as govern appeals in
44 ordinary civil actions. The court of appeals shall have jurisdiction to
45 review all questions of law and of fact. The board, of its own motion,
46 may certify questions of law to the court of appeals for its decision and

1 determination. An assignment of errors that the award of the full board
2 is contrary to law shall be sufficient to present both the sufficiency of
3 the facts found to sustain the award and the sufficiency of the evidence
4 to sustain the finding of facts. All such appeals and certified questions
5 of law shall be submitted upon the date filed in the court of appeals,
6 shall be advanced upon the docket of the court, and shall be determined
7 at the earliest practicable date, without any extensions of time for filing
8 briefs. An award of the full board affirmed on appeal, by the employer,
9 shall be increased thereby five percent (5%), and by order of the court
10 may be increased ten percent (10%).

11 (g) Upon order of the worker's compensation board made after five
12 (5) days notice is given to the opposite party, any party in interest may
13 file in the circuit or superior court of the county in which the
14 disablement occurred a certified copy of the memorandum of
15 agreement, approved by the board, or of an order or decision of the
16 board, or of an award of the full board unappealed from, or of an award
17 of the full board affirmed upon an appeal, whereupon the court shall
18 render judgment in accordance therewith and notify the parties. Such
19 judgment shall have the same effect and all proceedings in relation
20 thereto shall thereafter be the same as though such judgment has been
21 rendered in a suit duly heard and determined by the court. Any such
22 judgment of such circuit or superior court, unappealed from or affirmed
23 on appeal or modified in obedience to the mandate of the court of
24 appeals, shall be modified to conform to any decision of the industrial
25 board ending, diminishing, or increasing any weekly payment under the
26 provisions of subsection (i) upon the presentation to it of a certified
27 copy of such decision.

28 (h) In all proceedings before the worker's compensation board or in
29 a court under the compensation provisions of this chapter, the costs
30 shall be awarded and taxed as provided by law in ordinary civil actions
31 in the circuit court. **Prejudgment interest shall be awarded at a rate**
32 **of eight percent (8%) per year accruing from the date of filing of**
33 **the application for adjustment of claim as determined under**
34 **subsection (a).**

35 (i) The power and jurisdiction of the worker's compensation board
36 over each case shall be continuing, and, from time to time, it may, upon
37 its own motion or upon the application of either party on account of a
38 change in conditions, make such modification or change in the award
39 ending, lessening, continuing, or extending the payments previously
40 awarded, either by agreement or upon hearing, as it may deem just,
41 subject to the maximum and minimum provided for in this chapter.
42 When compensation which is payable in accordance with an award or
43 settlement contract approved by the board is ordered paid in a lump
44 sum by the board, no review shall be had as in this subsection
45 mentioned. Upon making any such change, the board shall immediately
46 send to each of the parties a copy of the modified award. No such

modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid. The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done

1 within the time required in this chapter.

2 SECTION 23. IC 22-4-2-22 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. "Valid claim"
4 means a claim filed by an individual who has established qualifying
5 wage credits and who is totally, partially, or part-totally unemployed;
6 Provided, no individual in a benefit period may file a valid claim for a
7 ~~waiting period or~~ benefit period rights with respect to any period
8 subsequent to the expiration of such benefit period.

9 SECTION 24. IC 22-4-2-29 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. "Insured
11 unemployment" means unemployment during a given week for which
12 waiting period credit or benefits, **if applicable**, are claimed under the
13 state employment security program, the unemployment compensation
14 for federal employees program, the unemployment compensation for
15 veterans program, or the railroad unemployment insurance program.

16 SECTION 25. IC 22-4-4-3, AS AMENDED BY P.L.30-2000,
17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2002]: Sec. 3. (a) For calendar quarters beginning on and after
19 April 1, 1979, and before April 1, 1984, "wage credits" means
20 remuneration paid for employment by an employer to an individual.
21 Wage credits may not exceed three thousand six hundred sixty-six
22 dollars (\$3,666) and may not include payments specified in section
23 2(b) of this chapter.

24 (b) For calendar quarters beginning on and after April 1, 1984, and
25 before April 1, 1985, "wage credits" means remuneration paid for
26 employment by an employer to an individual. Wage credits may not
27 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
28 may not include payments specified in section 2(b) of this chapter.

29 (c) For calendar quarters beginning on and after April 1, 1985, and
30 before January 1, 1991, "wage credits" means remuneration paid for
31 employment by an employer to an individual. Wage credits may not
32 exceed four thousand one hundred eighty-six dollars (\$4,186) and may
33 not include payments specified in section 2(b) of this chapter.

34 (d) For calendar quarters beginning on and after January 1, 1991,
35 and before July 1, 1995, "wage credits" means remuneration paid for
36 employment by an employer to an individual. Wage credits may not
37 exceed four thousand eight hundred ten dollars (\$4,810) and may not
38 include payments specified in section 2(b) of this chapter.

39 (e) For calendar quarters beginning on and after July 1, 1995, and
40 before July 1, 1997, "wage credits" means remuneration paid for
41 employment by an employer to an individual and remuneration
42 received as tips or gratuities in accordance with Sections 3102 and
43 3301 et seq. of the Internal Revenue Code. Wage credits may not
44 exceed five thousand dollars (\$5,000) and may not include payments
45 specified in section 2(b) of this chapter.

46 (f) For calendar quarters beginning on and after July 1, 1997, and

1 before July 1, 1998, "wage credits" means remuneration paid for
 2 employment by an employer to an individual and remuneration
 3 received as tips or gratuities in accordance with Sections 3102 and
 4 3301 et seq. of the Internal Revenue Code. Wage credits may not
 5 exceed five thousand four hundred dollars (\$5,400) and may not
 6 include payments specified in section 2(b) of this chapter.

7 (g) For calendar quarters beginning on and after July 1, 1998, and
 8 before July 1, 1999, "wage credits" means remuneration paid for
 9 employment by an employer to an individual and remuneration
 10 received as tips or gratuities in accordance with Sections 3102 and
 11 3301 et seq. of the Internal Revenue Code. Wage credits may not
 12 exceed five thousand six hundred dollars (\$5,600) and may not include
 13 payments that are excluded from the definition of wages under section
 14 2(b) of this chapter.

15 (h) For calendar quarters beginning on and after July 1, 1999, and
 16 before July 1, 2000, "wage credits" means remuneration paid for
 17 employment by an employer to an individual and remuneration
 18 received as tips or gratuities in accordance with Sections 3102 and
 19 3301 et seq. of the Internal Revenue Code. Wage credits may not
 20 exceed five thousand eight hundred dollars (\$5,800) and may not
 21 include payments that are excluded from the definition of wages under
 22 section 2(b) of this chapter.

23 (i) For calendar quarters beginning on and after July 1, 2000, and
 24 before July 1, 2001, "wage credits" means remuneration paid for
 25 employment by an employer to an individual and remuneration
 26 received as tips or gratuities in accordance with Sections 3102 and
 27 3301 et seq. of the Internal Revenue Code. Wage credits may not
 28 exceed six thousand seven hundred dollars (\$6,700) and may not
 29 include payments that are excluded from the definition of wages under
 30 section 2(b) of this chapter.

31 (j) For calendar quarters beginning on and after July 1, 2001, and
 32 before July 1, 2002, "wage credits" means remuneration paid for
 33 employment by an employer to an individual and remuneration
 34 received as tips or gratuities in accordance with Sections 3102 and
 35 3301 et seq. of the Internal Revenue Code. Wage credits may not
 36 exceed seven thousand three hundred dollars (\$7,300) and may not
 37 include payments that are excluded from the definition of wages under
 38 section 2(b) of this chapter.

39 (k) For calendar quarters beginning on and after July 1, 2002, **and**
 40 **before July 1, 2003**, "wage credits" means remuneration paid for
 41 employment by an employer to an individual and remuneration
 42 received as tips or gratuities in accordance with Sections 3102 and
 43 3301 et seq. of the Internal Revenue Code. Wage credits may not
 44 exceed seven thousand nine hundred dollars (\$7,900) and may not
 45 include payments that are excluded from the definition of wages under
 46 section 2(b) of this chapter.

(l) For calendar quarters beginning on and after July 1, 2003, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand five hundred dollars (\$8,500) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 26. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits; but during which he was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. No An individual in a benefit period may not file for waiting period or benefit period rights with respect to any subsequent period. Provided, however, That no waiting period shall be required as a prerequisite for drawing extended benefits: ".

Page 19, between lines 25 and 26, begin a new paragraph and insert:

SECTION 28. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure

occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;
- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 29. IC 22-4-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) An individual shall be ineligible for ~~waiting period or~~ benefit rights for any week with respect to which ~~his~~ **the individual's** total or partial or part-total unemployment is due to a labor dispute at the factory, establishment, or other premises at which ~~he~~ **the individual** was last employed.

(b) This section shall not apply to an individual if:

(1) ~~he~~ **the individual** has terminated ~~his~~ **the individual's** employment, or ~~his~~ **the individual's** employment has been terminated, with the employer involved in the labor dispute; ~~or if~~

(2) the labor dispute which caused ~~his~~ **the individual's** unemployment has terminated and any period necessary to resume normal activities at ~~his~~ **the individual's** place of employment has elapsed; or ~~if~~

(3) all of the following conditions exist: ~~He~~

(A) **The individual** is not participating in or financing or directly interested in the labor dispute which caused ~~his~~ **the individual's** unemployment. ~~and he~~

(B) **The individual** does not belong to a grade or class of workers of which, immediately before the commencement of ~~his~~ **the individual's** unemployment, there were members employed at the same premises as ~~he~~; **the individual**, any of whom are participating in or financing or directly interested in the dispute. ~~and he~~

(C) **The individual** has not voluntarily stopped working, other than at the direction of ~~his~~ **the worker's** employer, in sympathy with employees in some other establishment or factory in which a labor dispute is in progress.

(c) If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment, or other premises.

(d) Upon request of any claimant or employer involved in an issue arising under this section, the deputy shall, and in any other case the deputy may, refer claims of individuals with respect to whom there is an issue of the application of this section to an administrative law judge who shall make the initial determination with respect thereto, in accordance with the procedure in IC 22-4-17-3.

(e) Notwithstanding any other provisions of this article, an individual shall not be ineligible for ~~waiting period or~~ benefit rights under this section solely by reason of ~~his~~ **the individual's** failure or refusal to apply for or to accept recall to work or reemployment with an employer during the continuance of a labor dispute at the factory, establishment, or other premises of the employer, if the individual's last separation from the employer occurred prior to the start of the labor dispute and was permanent or for an indefinite period.

SECTION 30. IC 22-4-15-4, AS AMENDED BY P.L.290-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) An individual ~~shall be~~ **is** ineligible for ~~waiting period or~~ benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or

1 exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

2 (1) deductible income as defined and applied in IC 22-4-5-1 and
3 IC 22-4-5-2; or

4 (2) any pension, retirement or annuity payments, under any plan
5 of an employer whereby the employer contributes a portion or all
6 of the money. This disqualification shall apply only if some or all
7 of the benefits otherwise payable are chargeable to the experience
8 or reimbursable account of ~~such~~ **the** employer, or would have
9 been chargeable except for the application of this chapter. For ~~the~~
10 purposes of this subdivision, ~~(2)~~, federal old age, survivors, and
11 disability insurance benefits are not considered payments under
12 a plan of an employer whereby the employer maintains the plan
13 or contributes a portion or all of the money to the extent required
14 by federal law.

15 (b) If the payments described in subsection (a) are less than ~~his~~ **the**
16 **individual's** weekly benefit amount, an otherwise eligible individual
17 ~~shall be~~ is not be ineligible and shall be entitled to receive for such week
18 benefits reduced by the amount of such payments.

19 (c) This section does not preclude an individual from delaying a
20 claim to pension, retirement, or annuity payments until the individual
21 has received the benefits to which the individual would otherwise be
22 eligible under this chapter. Weekly benefits received before the date
23 the individual elects to retire shall not be reduced by any pension,
24 retirement, or annuity payments received on or after the date the
25 individual elects to retire.

26 SECTION 31. IC 22-4-15-5 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Except as provided
28 in IC ~~1971~~, 22-4-22, an individual ~~shall be~~ is ineligible for ~~waiting~~
29 ~~period or~~ benefit rights for any week with respect to which or a part of
30 which ~~he~~ **the individual** receives, is receiving, has received or is
31 seeking unemployment benefits under an unemployment compensation
32 law of another state or of the United States. ~~Provided, that~~ **However,**
33 this disqualification shall not apply if the appropriate agency of such
34 other state or of the United States finally determines that ~~he~~ **the**
35 **individual** is not entitled to such employment benefits, including
36 benefits to federal civilian employees and ex-servicemen pursuant to
37 5 U.S.C. Chapter 85.

38 SECTION 32. IC 22-4-16-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. Notwithstanding any
40 other provisions of this article, if an individual knowingly fails to
41 disclose amounts earned during any week in ~~his waiting period~~, **the**
42 **individual's** benefit period or extended benefit period with respect to
43 which benefit rights or extended benefit rights are claimed, or
44 knowingly fails to disclose or has falsified as to any fact ~~which that~~
45 would have disqualified ~~him~~ **the individual** or rendered ~~him~~ **the**
46 **individual** ineligible for benefits or extended benefits or would have

1 reduced ~~his~~ **the individual's** benefit rights or extended benefit rights
 2 during such a week, all of ~~his~~ **the individual's** wage credits established
 3 prior to the week of the falsification or failure to disclose shall be
 4 ~~cancelled, canceled,~~ and any benefits or extended benefits ~~which that~~
 5 might otherwise have become payable to ~~him~~ **the individual** and any
 6 benefit rights or extended benefit rights based upon those wage credits
 7 shall be forfeited.

8 SECTION 33. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,
 9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2002]: Sec. 2. (a) When an individual files an initial claim, the
 11 department shall promptly make a determination of ~~his~~ **the**
 12 **individual's** status as an insured worker in a form prescribed by the
 13 board. A written notice of the determination of insured status shall be
 14 furnished ~~him~~ **to the individual** promptly. Each such determination
 15 shall be based on and include a written statement showing the amount
 16 of wages paid to the individual for insured work by each employer
 17 during the individual's base period and shall include a finding as to
 18 whether such wages meet the requirements for the individual to be an
 19 insured worker, and, if so, the week ending date of the first week of the
 20 individual's benefit period, the individual's weekly benefit amount, and
 21 the maximum amount of benefits that may be paid to the individual for
 22 weeks of unemployment in the individual's benefit period. For the
 23 individual who is not insured, the notice shall include the reason for the
 24 determination. Unless the individual, within twenty (20) days after such
 25 determination was mailed to the individual's last known address, or
 26 otherwise delivered to the individual, asks a hearing thereon before an
 27 administrative law judge, such determination shall be final and benefits
 28 shall be paid or denied in accordance therewith.

29 (b) The department shall promptly furnish each employer in the base
 30 period whose experience or reimbursable account is potentially
 31 chargeable with benefits to be paid to such individual with a notice in
 32 writing of the employer's benefit liability. Such notice shall contain the
 33 date, the name and social security account number of the individual,
 34 the ending date of the individual's base period, and the week ending
 35 date of the first week of the individual's benefit period. Such notice
 36 shall further contain information as to the proportion of benefits
 37 chargeable to the employer's experience or reimbursable account in
 38 ratio to the earnings of such individual from such employer. Unless the
 39 employer, within twenty (20) days after such notice of benefit liability
 40 was mailed to the employer's last known address, or otherwise
 41 delivered to the employer, asks a hearing thereon before an
 42 administrative law judge, such determination shall be final and benefits
 43 paid shall be charged in accordance therewith.

44 (c) An employing unit, including an employer, having knowledge
 45 of any facts which may affect an individual's eligibility or right to
 46 waiting period credits or benefits, shall notify the department of such

1 facts within twenty (20) days after the mailing of notice that a former
 2 employee has filed an initial or additional claim for benefits on a form
 3 prescribed by the board.

4 (d) In addition to the foregoing determination of insured status by
 5 the department, the deputy shall, throughout the benefit period,
 6 determine the claimant's eligibility with respect to each week for which
 7 the claimant claims ~~waiting period credit~~ or benefit rights, the validity
 8 of the claimant's claim therefor, and the cause for which the claimant
 9 left the claimant's work, or may refer such claim to an administrative
 10 law judge who shall make the initial determination with respect thereto
 11 in accordance with the procedure in IC 22-4-17-3.

12 (e) In cases where the claimant's benefit eligibility or
 13 disqualification is disputed, the department shall promptly notify the
 14 claimant and the employer or employers directly involved or connected
 15 with the issue raised as to the validity of such claim, the eligibility of
 16 the claimant for ~~waiting period credit~~ or benefits, or the imposition of
 17 a disqualification period or penalty, or the denial thereof, and of the
 18 cause for which the claimant left the claimant's work, of such
 19 determination and the reasons thereof. Except as otherwise hereinafter
 20 provided in this subsection regarding parties located in Alaska, Hawaii,
 21 and Puerto Rico, unless the claimant or such employer, within twenty
 22 (20) days after such notification was mailed to the claimant's or the
 23 employer's last known address, or otherwise delivered to the claimant
 24 or the employer, asks a hearing before an administrative law judge
 25 thereon, such decision shall be final and benefits shall be paid or
 26 denied in accordance therewith. With respect to notice of disputed
 27 administrative determination or decision mailed or otherwise delivered
 28 to the claimant or employer either of whom is located in Alaska,
 29 Hawaii, or Puerto Rico, unless such claimant or employer, within
 30 twenty-five (25) days after such notification was mailed to the
 31 claimant's or employer's last known address or otherwise delivered to
 32 the claimant or employer, asks a hearing before an administrative law
 33 judge thereon, such decision shall be final and benefits shall be paid or
 34 denied in accordance therewith. If such hearing is desired, the request
 35 therefor shall be filed with the commissioner in writing within the
 36 prescribed periods as above set forth in this subsection and shall be in
 37 such form as the board may prescribe. In the event a hearing is
 38 requested by an employer or the department after it has been
 39 administratively determined that benefits should be allowed to a
 40 claimant, entitled benefits shall continue to be paid to said claimant
 41 unless said administrative determination has been reversed by a due
 42 process hearing. Benefits with respect to any week not in dispute shall
 43 be paid promptly regardless of any appeal.

44 (f) ~~No~~ A person may **not** participate on behalf of the department in
 45 any case in which the person is an interested party.

46 (g) Solely on the ground of obvious administrative error appearing

1 on the face of an original determination, and within the benefit year of
2 the affected claims, the commissioner, or a representative authorized
3 by the commissioner to act in the commissioner's behalf, may
4 reconsider and direct the deputy to revise the original determination so
5 as to correct the obvious error appearing therein. Time for filing an
6 appeal and requesting a hearing before an administrative law judge
7 regarding the determinations handed down pursuant to this subsection
8 shall begin on the date following the date of revision of the original
9 determination and shall be filed with the commissioner in writing
10 within the prescribed periods as above set forth in subsection (c).

11 (h) Notice to the employer and the claimant that the determination
12 of the department is final if a hearing is not requested shall be
13 prominently displayed on the notice of the determination which is sent
14 to the employer and the claimant."

15 Page 24, delete line 39.

16 Renumber all SECTIONS consecutively.

(Reference is to ESB 71 as printed February 22, 2002.)

Representative Liggett